

DAC
faw



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

ROBERTS, et al.

**FOR: REGULATION OF CYTOTROPHOBLAST
CELL DIFFERENTIATION
AND CELL MIGRATION**

SERIAL NO. 10/789,105

FILED: February 27, 2004

ART UNIT NO: 1649

EXAMINER: Borgeest, C.

Attorney Docket No: LP-02-019

PETITION UNDER 37 C.F.R 1.78

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

This is a Petition under 37 C.F.R. 1.78(a)(6) to have the above referenced application designated a continuation of PCT Application AU02/01226 and insert 35 U.S.C. § 119 priority data into the subject application.

The time period to comply with 37 C.F.R. 1.78 has expired. Therefore, pursuant to 37 C.F.R. 1.78(a)(6), this petition is being filed to have the above referenced patent application designated a continuation of PCT Application AU02/01226 and is accompanied by (i) a preliminary amendment inserting the appropriate reference required by § 119(e); (ii) the surcharge required under § 1.17(t); and (iii) a statement that the delay was unintentional.

The above referenced patent application was intended to be filed as a 35 U.S.C. § 371(a) national phase application of PCT application AU02/01226, filed August 30, 2002.

10/18/2005 HDEMESS1 00000057 10789105

01 FC:1454

1370.00 OP

A preliminary amendment was submitted with the Application, which explicitly stated the desire for this application to be recognized as a national phase application under 35 U.S.C. § 371 and requesting that appropriate reference paragraph be inserted. The application was, however, filed with a SB/05 form, which unintentionally implied that the application was being filed under 35 U.S.C. § 111(a).

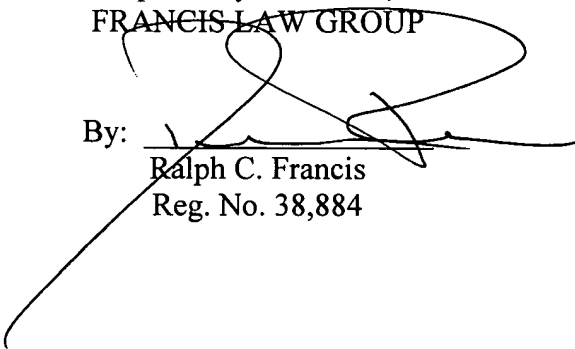
On or about September 6, 2005, our office received the September 1, 2005 Office Action that issued in the case. In the noted Action, the Examiner indicated that the application was not accorded § 371 filing status.

On September 8, 2005, Applicant accordingly filed a "Petition to Accord 35 U.S.C. § 371 Filing Status". On or about September 23, 2005, the PTO issued a "Decision on Petition," denying the change to § 371 status.

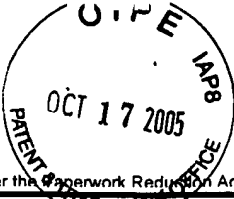
Applicant accordingly respectfully requests that the above referenced application be designated a continuation of PCT Application No. AU02/01226 and that the continuity data under 37 C.F.R. 1.78 to claim priority from the PCT application be inserted in the present application.

As indicated above, Applicant has either been pursuing remedies or under the impression that those remedies had been successful for the entire period of the delay. Therefore, Applicant states that the delay in claiming priority under § 119 was unintentional.

Respectfully submitted,
FRANCIS LAW GROUP

By: 
Ralph C. Francis
Reg. No. 38,884

Dated: October 13, 2005
1942 Embarcadero
Oakland, CA 94606
Tel: 510.533.1100



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL

For FY 2005

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 1370.00

Complete if Known

Application Number	10/789,105
Filing Date	February 27, 2004
First Named Inventor	Claire Roberts
Examiner Name	Borgeest, Christina M.
Art Unit	1649
Attorney Docket No.	LP-02-019

METHOD OF PAYMENT (check all that apply)☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____☒ Deposit Account Deposit Account Number: 06-1838 Deposit Account Name: Francis Law Group

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180
Total Claims	Extra Claims	Fee (\$)
- 20 or HP = _____ x _____ = _____		
HP = highest number of total claims paid for, if greater than 20.		
Indep. Claims	Extra Claims	Fee (\$)
- 3 or HP = _____ x _____ = _____		
HP = highest number of independent claims paid for, if greater than 3.		

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 = _____ / 50 = _____ (round up to a whole number) x _____ = _____				

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Petition Surcharge

Fees Paid (\$)

1370.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 38,884	Telephone 510.533.1100
Name (Print/Type)	Ralph C. Francis		Date October 13, 2005

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.